

Darwin H. Bingham, #7810
SCALLEY READING BATES
HANSEN & RASMUSSEN, P.C.
Attorneys for Barrington Park Homeowners Association
15 West South Temple, Suite 600
Salt Lake City, Utah 84101
Telephone: (801) 531-7870
Facsimile: (801) 326-4669
E-mail: dbingham@scalleyreading.net

IN THE UNITED STATES BANKRUPTCY COURT
DISTRICT OF UTAH

In re:	CHAPTER 13
KRYSTAL DAWN JOHNSON,	Bankruptcy Case No. 17-30036
Debtor.	Judge Kevin R. Anderson

BARRINGTON PARK HOMEOWNERS ASSOCIATION'S
MOTION FOR RELIEF FROM THE AUTOMATIC STAY

Pursuant to 11 U.S.C. § 362(d) and Rule 4001 of the Federal Rules of Bankruptcy Procedure, Barrington Park Homeowners Association (“BPHOA”), by and through counsel, hereby moves the Court for an order relieving BPHOA from the automatic stay. In support of its Motion, BPHOA represents as follows:

1. The Debtor filed for protection under Chapter 13 of the Bankruptcy Code on November 17, 2017.
2. The Debtor is the owner of certain real property located at approximately at 4314 Abby Court in Taylorsville, Utah (the “Property”), which is more particularly described as:

All of Lot Number 242, Barrington Park II F, a Planned Unit Development, According to the Official Plat thereof on file in the Office of the Salt Lake County Recorder, State of Utah, together with and including an appurtenant undivided interest in the common areas and facilities.

Parcel No.: 21-02-153-038-0000

3. The Property is subject to the recorded terms and conditions contained within the Barrington Park Declaration of Covenants, Conditions and Restrictions (“CC&Rs”).

4. Pursuant to the terms and conditions of the CC&R’s, the Debtor is obligated to pay a Homeowner Assessment Fee (“HOA Fee”) of \$182.00 per month.

5. Under the CC&R’s, and under the Debtor’s confirmed plan, the Debtor is required to timely make post-petition HOA Fee monthly payments to BPHOA. The Debtor has failed to make the last three post-petition payments, constituting the payments owed for December of 2017 through February of 2018.

6. Pursuant to U.S.C. § 362(d)(1), the Court should grant relief from the automatic stay “for cause, including the lack of adequate protection of an interest in property of such party in interest.”

7. The Debtor’s failure to make the last three post-petition HOA Fee payments constitutes “cause” for granting BPHOA relief from the automatic stay to proceed, pursuant to applicable non-bankruptcy law, to exercise all of its legal remedies and rights and enforce its lien against the Property as referenced above.

WHEREFORE, BPHOA prays for the following relief:

1. That BPHOA be granted relief from the automatic stay to proceed, pursuant to applicable non-bankruptcy law, to exercise all of its legal remedies and rights and enforce its lien against the Property as referenced above;
2. That BPHOA be granted at least 180 days after an order granting the Motion is entered to complete a foreclosure sale of the Property at issue and to file an amended proof of claim for any unsecured deficiency balance; and
3. For such other and further relief as the Court deems just and proper.

DATED this 22nd day of February, 2018.

SCALLEY READING BATES
HANSEN & RASMUSSEN, P.C.

/s/ Darwin H. Bingham
Darwin H. Bingham
Attorneys for Barrington Park Homeowners Association

CERTIFICATE OF SERVICE -
BY NOTICE OF ELECTRIC FILING (CM/ECF)

I hereby certify that on the 22nd day of February, 2017, I electronically filed the foregoing **BARRINGTON PARK HOMEOWNERS ASSOCIATION'S MOTION FOR RELIEF FROM THE AUTOMATIC STAY** with the United States Bankruptcy Court for the District of Utah by using the CM/ECF system. I further certify that the parties of record in this case, as identified below, are registered CM/ECF users and will be served through the CM/ECF system.

- Lon Jenkins – ecfmail@ch13ut.org; lneebling@ch13ut.org
- Brian D. Johnson – courtmail@bdjexpresslaw.com; pauline.thayne@yahoo.com
- Mark S. Middlemas – LundbergECFmail@Lundbergfirm.com; ecfmaildistgroup@lundbergfirm.com
- United States Trustee – USTPRegion19.SK.ECF@usdoj.gov
- Brian D. Johnson – courtmail@bdjexpresslaw.com; pauline.thayne@yahoo.com@utah.gov

CERTIFICATE OF SERVICE -
BY MAIL, OTHER

I hereby certify that on the 22nd day of February, 2018, I caused to be served a true and correct copy of the foregoing **BARRINGTON PARK HOMEOWNERS ASSOCIATION'S MOTION FOR RELIEF FROM THE AUTOMATIC STAY** as follows:

Mail Service - by regular first class United States mail, postage fully pre-paid, addressed to:

Krystal Dawn Johnson
4314 Abby Court
Salt Lake City, Utah 84123

/s/ Catrina Nay